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Chairman Julius Genachowski
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20054

Re: MB Docket No. 09-182, 2010 Quadrennial Review

Dear Chairman Genachowski:

We wish to make clear that we oppose further consolidation within the broadcast sector because of the certain negative consequences it holds for minority and women's ownership. We ask the Commission for two things:

1) to delay any action on cross-ownership until the November 14 ownership report receives adequate public scrutiny and questions about the present state of ownership can surface; and

2) to fund the new round of Adarand studies so that the Commission will have adequate data on which to consider any new ownership regulations.

As scholars of communication, we affirm the necessity of basing sound public policy on thorough and credible research. To date, the Commission has not undertaken studies specifically on the effects of loosening cross-ownership rules on women's and minority broadcast ownership. It is also past due for studies addressing other aspects of media ownership that contribute to persistently low ownership in the broadcast sector by women and minorities. Such research is clearly required before commissioners even discuss the matter.

The literature on the effects of conglomeration, by contrast, is fairly large and offers much to stir our alarm over prospects of further deregulation. Drawing from some of the studies on the impacts of conglomeration brought on by deregulation, we elaborate on the urgent nature of doing new research on women and minority ownership to explain the present barriers, to anticipate future impacts of further deregulation, and to establish a responsible path to adoption of new rules.

Minority ownership is in terrible straits in this nation.

The Commission's own Quadrennial Report dated November 14, 2012, shows the low levels to which minority broadcasting has fallen. Black radio particularly suffers from consolidation, with

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presently only 1.7% FM stations and 2.8% AM stations. Television is barely higher at 7%. Thus, the nation's second largest minority group has all but lost its ability to communicate within its own African American community or with broader publics. The burden of responsibility for this sad fact lies both with Congress and the FCC, but the FCC's role cannot be minimized. While fragmented and incomplete, the extant research does contain findings that support our concerns about further deregulation.

The necessity of African Americans owning their own stations was first demonstrated in the landmark case *United Church of Christ v. Federal Communications Commission* (1966), which challenged the broadcast license of a racist Mississippi broadcaster who owned local station WLBT. After that ruling, Black radio stations gained in number through the 1960s and 1970s, in the context of a well-mobilized civil rights movement, but they lost their hold after the Telecommunications Act of 1996 was passed. That law gave the FCC free reign to issue rules to deregulate telecommunications industries.

The results of deregulation on minority ownership have been alarming, as data from the current FCC's ownership report show.

Unlike larger corporations, minority radio company owners tend to own only a few stations, and they have a more difficult time acquiring the revenues they need through advertising to do well financially. They are extremely vulnerable to sliding into debt and having to sell out to larger, wealthier companies. This situation was predicted by Howard (1997) soon after the 1996 Act was passed. Howard noted the "high-dollar transactions" taking place in the radio industry within in the first month after President Clinton signed the bill into law stating,

> Infinity, the largest radio group, merged with the even larger Westinghouse/CBS, the latter paying $4.9 billion for the buyout. As a result of the largest acquisition in radio history, Westinghouse/CBS now owns fifty FM stations and thirty-three AM stations throughout sixteen markets, and has sixty-nine of its eighty-three outlets in the largest ten markets. Clear Channel Communications, however, after purchasing Heftel Broadcasting, has an even more pervasive presence owning 108 stations. (p. 279)

Consolidation not only reduces minority ownership, it also causes ethnic-oriented programming to wane. This effect was shown in the late 1990s by Huntemann (2009), who was concerned about the loss of minority-oriented content on the radio. Her research shows that as the industry began to consolidate, ethnic-oriented radio formats decreased among the largest radio group owners and were replaced with formats to attract a broader listening audience. The assumption by owners was that mostly minority urban listeners were less likely to buy products advertised than those belonging to a majority audience. Consolidation also affects radio content when Black-formatted stations owned by conglomerates don't support new Black artists but rather stay with mainstream music from other conglomerate-owned music companies to assure their mainstream audience base for advertisers.

In fact, the loss of minority – and women's – broadcast ownership has been observed repeatedly through the years. Soon after the 1996 Act was passed, Rapela (1999) noted that the number of minority-owned AM and FM stations had already dropped 9% from 312 to 284, between 1995 and 1997. In FM radio, Black-owned stations fell 26%, to 64, in 1997. Hispanic-owned stations fell 9% to only 31. As prices of stations rose, women and minorities (which are small businesses) found it harder to buy new properties or to stay afloat in ones they already owned, especially in major media markets.

When local content dies, the public interest is no longer served.

The principle of locally-produced and oriented content – localism – has guided both the FCC and courts in formulating regulations and rendering decisions, respectively. With the advent of neoliberal policies under President Reagan, the spirit of deregulation took hold with regard to policies affecting many industries, including broadcasting.

Consolidation of ownership nationally under the 1996 Act has increase absentee ownership at the local level, bringing with it nationally-produced content. Much has been made of the instances where local stations with their programming fed from a central national location being unable to respond to communities with emergency situations, and yet the situation persists to the present day. One Washington, DC, FM station presently runs a promotional spot bragging that "we're the station that has no DJs, no chatter, just wall-to-wall music!" The thoughtful listener will realize that the station has no on-air staff at all, only canned music and advertising from the conglomerate's central headquarters.

The disappearance of local content has received case-study examination. Looking at the effects of the 1996 Act on the predominantly African-American Detroit market, John Arnold (2007) compared radio ownership six years before to six after the act was passed. He found that in 1996, five radio companies controlled 50% of all radio stations in the Detroit broadcast market, receiving 82.8% of all revenues. In 10 years' time, the number of owners controlling 50% of the stations dropped to three and they received 81.9% of all revenues. The largest of these companies was Clear Channel. In the timeframe he studied, radio content became homogenized (i.e., conglomerates sent the same playlists to all their stations), local content faded away, and Black employees dropped from 14.1% of the radio workforce in 1996 to only 8.7% in 2006. Others who have followed the demise of Black-owned stations have also noted that talk radio has replaced news and public affairs.

Hispanics are the largest ethnic minority group in the nation and look to their ethnic-media for information as well as cultural programming. Coffey and Sanders (2010) examined the effects of horizontal integration when Univision bought Hispanic Broadcasting in 2003, a move that consolidated the largest Spanish-language television corporation and the top-rated radio broadcaster in the country. While the Department of Justice sounded a warning for the FCC to exercise caution, only FCC Commissioners Adelstein and Copps opposed the purchase, saying that the necessary analysis of impacts had not been conducted. The authors observe that such impacts are now evident. For example, San Antonio and Austin, Texas, with 61% and 36% Hispanic populations, respectively, occupied at the time of writing a common market in which 15 radio stations are controlled by two corporations, Univision Radio and Border Media Partners. Although both are Spanish-language oriented, none of their stations provides news or public affairs programming. Moreover, new stations are thwarted from entering the market due to the limited advertising dollars in the area for Spanish-language stations. The FCC has acknowledged that English-language and Spanish-language stations do not compete, i.e., they serve separate markets. The upshot of this is that FCC gives preferences to English-language media, most of which are owned by large conglomerates with White owners and/or managers. The message here is that Hispanic populations can no longer count on Spanish-language stations to provide news or other information relevant to their communities' interests.

Research supports the efforts made by both minorities and women owners to serve their local communities. Women broadcasters, most of whom own one or few stations (and those in small markets) told Byerly (2011) that they strive to serve the local community in all their activities. According to one, "[We] do the things that small-town radio stations have always done – obituaries, swap shop, community calendar, locally produced news, public affairs" (p. 33). And, yet, the handwriting is on the wall for these owners' survival if deregulation further encroaches.

Conglomeration decreases diversity, both racial and gender.

To now, we have focused on minority ownership, but the situation is similarly dire for women in broadcast. The FCC's Nov. 14 report cited female majority ownership at 6.8% for full-powered TV stations, 7.8% for AM stations, and 5.8% for FM stations.

The threat of conglomeration to diversity in both ownership and programming has long been known. Observed, for instance, as early as the 1980s when deregulation advanced under President Reagan, Wimmer (1985-86) found that media concentration had already begun to manifest itself in both ownership and content levels of the industry, the latter having been shown empirically to "be attributed to the lack of minorities in decision-making positions in the media" (p. 431).

Research also shows the low rates at which women are employed under male-dominated media. Women comprised only 26% of those working as creators, directors, writers, producers, executive producers, editors, and directors of photography on broadcast television programs during the 2011-12 prime-time season, and only 24% of those working as directors, writers, producers, cinematographers, and editors on domestically produced feature-length films (CWTF, 2012). Women fare somewhat better at 37% of the workforce in U.S. newsrooms (ASNE, 2011). Employment is closely related to ownership, even when EEO guidelines are followed. Women broadcast owners surveyed by Byerly (2011) said they struggled financially, particularly through recent years of a poor economy. Research is needed to establish how many failed and have sold out to conglomerates.

Court Rulings require the FCC to determine impact of ownership rules.

In its *Prometheus I* (2003) and *Prometheus II* (2011) rulings, the Third Circuit Court of Appeals required the Commission to consider the effect of its present rules on women and minority broadcast ownership before it makes further adjustments to its regulations. We stand with that ruling in asking the five commissioners of the FCC to serve the public interest as January 2013 approaches. We reiterate our request that the Commission defer any further action to relax ownership rules until there has been a thorough vetting of the Nov. 14 ownership report and until a new round of Adarand studies can be undertaken. Our request echoes those of many, many others. We note with particular interest the report "Recommendation for Renewed Adarand Studies" (2009), **by the FCC's own Advisory Committee on Diversity for Communications in the Digital Age**, which called for disparity studies to determine the extent of race-conscious initiatives, content studies, capital markets studies, broadcast license studies and auction utilization studies. Commissioners have a responsibility to honor ours and others' well-grounded requests.

Sincerely,

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